

## **NEW SECTION**

### **WAC 173-201A-450 Water quality offsets.**

- (1) A water quality offset occurs where a project proponent implements or finances the implementation of controls for point or nonpoint sources to reduce the levels of pollution for the purpose of creating sufficient assimilative capacity to allow new or expanded discharges. The goal of water quality offsets is to reduce the pollution levels of a waterbody sufficiently so that a proponent's actions do not cause or further contribute to a violation of the requirements of this chapter and so that they result in a net environmental benefit. Water quality offsets may be used to assist an entity in meeting load allocations targeted under a pollution reduction analysis (such as a total maximum daily load) as established by the department. Water quality offsets may be used to reduce the water quality effect of a discharge to levels that are unmeasurable and in compliance with the water quality antidegradation Tier II analysis (WAC 173-201A-320).
- (2) Water quality offsets may be allowed by the department when it meets all of the following conditions:
  - (a) Water quality offsets must target specific water quality parameters that would not meet the water quality standards within that water body.
  - (b) The improvements in water quality associated with creating water quality offsets for any proposed new or expanded actions must be demonstrated to have occurred in advance of the proposed action.
  - (c) The technical basis and methodology for the water quality offsets is documented through a technical analysis of pollutant loading, and that analysis is made available for review by the department. The methodology must incorporate the uncertainties associated with any proposed point or nonpoint source controls as well as variability in effluent quality for sources, and must demonstrate that an appropriate margin of safety is included. The approach must clearly account for the attenuation of the benefits of pollution controls as the water moves to the location where the offset is needed.
  - (d) Point or nonpoint source pollution controls must be secured using binding legal instruments between any involved parties for the life of the project that is being offset. The proponent remains solely responsible for ensuring the success of offsetting activities for both compliance and enforcement purposes.
  - (e) Only the proportion of the pollution controls which occurs beyond existing requirements for those sources can be included in the offset allowance.
  - (f) Water quality offsets must meet antidegradation requirements in WAC 173-201A-300 through WAC 173-201A-330 and federal anti-backsliding requirements in CFR 122.44(l).